THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION NO.15218 OF 2007
AND
WRIT PETITION NO.15219 OF 2007

Dated: 20th JULY, 2007.

In W.P.No.15218 of 2007

Between :

M. Renuka ... Petitioner

And

1. The General Manager, South Central Railway,
Rail Nilayam, Secunderabad.,
And another. ... Respondents

In W.P.No.15219 of 2007

Between :

M. Renuka ... Petitioner

And

1. The General Manager, South Central Railway,
Rail Nilayam, Secunderabad.,
And another. ... Respondents

THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION NO.15218 OF 2007
AND
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COMMON ORDER :

The petitioner herein was awarded two contracts by the 2nd respondent for operating the vehicle parking stand at Hafizpet and Hi-tech City Railway-Stations for a period of 3 years from 15-11-2005 to 14-11-2008. The annual licence fee agreed upon was Rs.8,000/- in respect of Hafizpet Railway Station and Rs. 19,000/- in respect of Hi-tech City Railway Station.

While so, the 2nd respondent vide letter dated 30-5-2007 informed the petitioner that the railway administration has taken a decision to revise the annual licence fee to Rs.95,200/- and Rs.1,44,100/- respectively w.e.f. 15-5-2007. Accordingly, the petitioner was also called upon to pay the revised licence fee for the period from 15-5-2007 to 14-11-2007 which is coming to Rs.44,332/- and Rs.61,623/- respectively to the two railway stations in question on or before 15-6-2007 failing which penal charges at 18% per annum would be levied. Having received the said proceedings, the petitioner made a representation on 14-6-2007 requesting the 2nd respondent to revise the licence fee by reducing the amount explaining the financial difficulties being faced by her. The 2nd respondent while rejecting the said request by order dated 6-7-2007 directed the petitioner to pay the balance licence fee immediately failing which the contract would be terminated without further notice. Hence, these two writ petitions seeking a declaration that the impugned action of the respondents is arbitrary and illegal.

At the outset, it is to be noted that Clause-4 of the agreements executed between the parties specifically empowers the respondents to enhance the licence fee as and when necessary making it clear that such enhanced charges shall be applicable and recoverable from the

licensee from the date of the notices of the enhancement in writing on the licensee unless the licensee vacates the premises within one month of the said notice. The said clause may be extracted hereunder.

> *"4. The Administration reserve their right to enhance the license fee or the cess rates and water charges as and when necessary to do so and such enhanced charges shall be applicable and recoverable from the Licensee/Licensees from the date of the notice of enhancement in writing served on the Licensee/Licensees unless the Licensee/Licensees vacate the premises within one month of the said notice."*

It is not in dispute that the enhancement of the licence fee which is impugned in these writ petitions is in terms of the above clause under the agreement. Admittedly, the contract is a non-statutory contract and all the rights and liabilities of the parties are regulated by the terms and conditions of the agreement itself.

The law is well-settled that in a case of a concluded non-statutory contract voluntarily entered into between the parties the obligations which arise out of such contract cannot be dealt with under Article 226 of the Constitution of India. As a matter of fact, in the case on hand, the respondents cannot be said to have committed any breach of terms and conditions of the contract, but on the other hand the enhancement of the licence fee is in accordance with the terms and conditions of the agreement.

Even assuming that the enhancement of licence fee is unreasonably high, it is for the petitioner to work out the appropriate remedy before the proper forum for redressal of her grievance, if any, but it is not open to the petitioner to seek any relief under Article 226 of the Constitution of India.

Accordingly, granting leave and liberty to the petitioner to work out the appropriate remedy if so advised, both the Writ Petitions are dismissed. No costs.

G. ROHINI, J.

Dt. 20–07-2007
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